APPENDIX.

EXHIBIT "A".

"17th Judicial District Court, Parish of Terrebonne, State of Louisiana.

William S. Lovell, et al.,
vs. **No. 11,193.**
Andrew Fitzpatrick, et al.

Action: Petitory.

Opinion & Judgment.

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"It is noteworthy that the Register of the Land Office does not recite that he *'hereby transfers* said lands'; his declaration is that the lands *'have been transferred* to the Atchafalaya Basin Levee Board—'.

"Since he was the officer charged with the function of making any formal transfer, his certificate is equivalent to the declaration that he had *already* (at a past date, or perhaps, of even date) accomplished and *performed* that function.

"And to *that declaration,* he appended the information that the transfer *had been made* under the provisions of Act 97 of 1890, thereby evidencing that he was fully aware of the duties imposed upon him by the terms of that Act, (the *very Act* relied upon by the Levee Board and its vendee and succeeding assignees, including the present defendants); and that he was equally aware that, by promulgating the certificate then being *subscribed to* by him, he was *then* as the duly designated and authorized *land custodian* of the State, declaring *over his official signature* and under the *official seal of his Office,* that the mandate and direction of Act No. 97 of 1890 regarding the ultimate disposition of 'tax-lands' not 'redeemed' by

the tax debtor, *had been consummated;* that his Office, the proper authority instituted for that purpose, had placed the Levee Board in possession. It amounted to a declaration by the State through its authorized agent and 'title keeper', that the Levee Board was the legal owner, as far as the State was concerned—consequently, that the title of the Board's assignees, if any, could be relied upon by the public as legally derived from the State by way of Act 97 of 1890.

"That Certificate was placed of record in the Parish of Terrebonne on Feb. 19th, 1921. It is a public document, solemnly attested by the Register of the Land Office, the designated conservator and keeper of the State's land titles. Its appearance on the conveyance records of the parish constituted notice by the State that it no longer claimed title to the lands, and that it was the author, through Act 97 of 1890, of the Levee Board's title thereto.

"Guided by that certificate, the public that took cognizance of it can scarcely be charged with moral bad faith if they accepted and acted upon its declarations and plain import. It, in effect, if indeed ratification was needed, ratified and acquiesced in the title claimed by the Levee Board and, by it, conveyed to Wisner and his succeeding assignees.

"Irrespective of whether such transfer had in fact been executed before that date, or whether the certificate of Feb., 1912, was the Register's first exercise of a mandatory ministerial function imposed upon him by Act 97 of 1890, it is certain that said certificate makes it clear that said ministerial function had been called into play and actually exercised, at least not later than Feb. 14, 1912, and (on that date) noted on the State land records by the State's authorized custodian of its land records and titles. At least from that date, the State was bound, and the general public was entitled to guide itself by the

presence of the certificate on the conveyance records of the Parish of Terrebonne.

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"However, as it affects the merits of the present case, it does not seem important whether the words used, ("have been transferred"), refer to a conveyance *already executed*, or whether they are used and to be understood as the equivalent of 'are *hereby* transferred'.

"If accorded the first meaning, then the certificate is a recognitive title specially setting forth the tenor of a previously executed title, the actual production of which, under the circumstances of the case, is not essential—because reference to the Act of 1890 automatically affords full information of the tenor and pertinent commitments of such primordial Act as could have been executed under its direction and authority.

* * * * * *

"If, on the other hand, it be considered that the language used was employed as the equivalent of 'are *hereby* transferred', then the certificate *itself* qualifies as the requisite 'conveyance' contemplated and directed by Act 97 of 1890—And, as such, perfected the title of the Levee Board.

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"In that situation, the conclusion is that from and after the recordation of said certificate of Feb., 1912, the present defendants have had and enjoyed a perfected title.

"The strength of plaintiffs' present claim depends solely upon the effectiveness of the redemption deed issued to them by the Register on Jan. 12th, 1938.

"As it affects the lands now in question, the redemption deed of 1938, may as well never have been written, for the reason that it purports to convey to the plaintiffs 'described lands' that were not under the control or supervision of the Register, and *had not been* since the issuance and recordation of the Register's certificate of Feb. 14, 1912—a period of 26 years.

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"Thus Done, Rendered, Read and Signed in open Court at Houma, La., on this 8th day of April, A. D. 1941.

(Signed) ROBT. B. BUTLER,
Judge, 17th Jud. Dist., La."

N. B. The above opinion is not quoted in full due to its considerable length.